IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID TOMPKIN, et al.,
Plaintiffs,
vs. Civil Action No.
THE AMERICAN TOBACCO 5:94 CV 1302
COMPANY, et al.,
Defendants.

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Continued deposition of JOSEPH F. TOMASHEFSKI, JR., M.D., called for examination under the Applicable Rules of Federal Civil Procedure, taken before me, Wendy L. Klauss, a Notary Public in and for the State of Ohio, pursuant to notice and stipulations of counsel, at MetroHealth Medical Center, 2500 MetroHealth Drive, Cleveland, Ohio, on Monday, July 9, 2001 at 5:17 o'clock p.m.

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VOLUME II
- - - - -

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(Thereupon, Tomashefski Deposition
Exhibits 1 through 6 were marked for
purposes of identification.)

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JOSEPH F. TOMASHEFSKI, JR., M.D.,
of lawful age, called for examination, as
provided by the Ohio Rules of Civil Procedure,
being by me first duly sworn, as hereinafter
certified, deposed and said further as follows:
EXAMINATION OF JOSEPH F. TOMASHEFSKI, JR., M.D.
BY MR. COFER:
Q. Would you state your name and
business address, please.
A. Joseph Francis Tomashefski, Jr. My
business address is Department of Pathology,
MetroHealth Medical Center, 2500 MetroHealth
Drive, Cleveland, Ohio.
Q. Dr. Tomashefski, your deposition
was previously taken in this case on December
20, 1997; is that correct?

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22 A. That is right.
23 Q. Have you had a chance to review the
24 transcript in preparation for this deposition?
25 A. Yes, I did.

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1 Q. When did you do that?
2 A. Actually I read it after it came
3 out and made a few minor corrections, and then
4 to refresh my memory, I reread it just this
5 past week.
6 Q. What else have you done to prepare
7 for your deposition today?
8 A. Well, let's see. In the interim I
9 relooked at the microscopic slides I had
10 available in this case.
11 Q. Which ones, doctor?
12 A. The slides of the original biopsy,
13 the slides of Mr. Tompkin's resected right
14 upper lobe, and also the slides from the
15 autopsy. And I reread all the reports
16 associated with those slides.
17 Q. And these are the reports that you
18 prepared?
19 A. The autopsy report was one that I
20 prepared. The resected lobe and the biopsy, I
21 reviewed the reports from the hospitals where
22 those procedures were done.
23 Q. While we were off the record, I
24 showed you some deposition exhibits that we
25 premarked for this afternoon, right?

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1 A. Yes.
2 Q. And let me show you, so we can
3 identify those for the record, the first marked
4 as Tomashefski Deposition Exhibit Number 1 is
5 an October 20, 1997 report that you prepared;
6 is that correct, doctor?
7 A. Yes, that's correct.
8 Q. And that was the first report you
9 prepared in this case?
10 A. That is the first -- well, if you
11 don't count the autopsy report.
12 Q. And what I mean is that is the
13 first expert report you prepared in this case?
14 A. Yes.
15 Q. What we marked as Deposition
16 Exhibit Number 2 is a March 13, 1998 report
17 that you prepared as well; is that correct,
18 doctor?
19 A. Yes.
20 Q. And then finally as Deposition
21 Exhibit Number 3, we have a May 18, 2001 letter
22 from you to Mr. Smith; is that right?
23 A. Yes, that's right.
24 Q. And again that's a letter that you
25 prepared in connection with your review in this

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1 case; is that right?
2 A. That's correct.
3 Q. Have you had a chance to review
4 those three reports?
5 A. I reread all of those reports.
6 Q. All right. Have you looked at any

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7 reports prepared by any other experts in this
8 case?
9 A. I looked at the report by Dr.
10 Sidransky that's cited in this report.
11 Q. Okay.
12 A. Other than that report, no, I have
13 not looked at any other reports.
14 Q. When did you look at Dr.
15 Sidransky's report?
16 A. Well, I looked at it at the time I
17 received it, it would have been about in May,
18 and I think I re-reviewed it, I went through my
19 whole file in this case during the past week
20 and I looked at it then.
21 Q. Have you reviewed any expert
22 reports prepared by the defendants?
23 A. No, I have not.
24 Q. Have you seen Dr. Feingold's
25 report?

1 A. No, I have not.
2 Q. Have you talked with anyone other
3 than Mr. Smith about this case?
4 A. Actually I did receive a call from
5 Dr. Feingold some weeks ago, and during that
6 conversation, it came out of the blue, I didn't
7 request it, he suggested it would be a good
8 idea to do additional testing, suggested the
9 Johns Hopkins laboratory.
10 Q. So this was a call you received
11 from Dr. Feingold sometime before May 18, 2001;
12 is that correct?
13 A. Yes, definitely.
14 Q. And the reason we point to that
15 date is Deposition Exhibit Number 3 is your
16 letter to Mr. Smith commenting, albeit briefly,
17 on Dr. Sidransky's testing; is that right?
18 A. That's right. And in the interval
19 between when I got the call from Dr. Feingold,
20 who I do not know and have not met, between the
21 time I got that call, I got a request from Mr.
22 Smith's office to provide slides to Dr.
23 Sidransky, which I did.
24 Q. And I want to ask you about those
25 in a few moments. Those were tissue slides,

1 tissue from Mr. Tompkin. Was it from the
2 autopsy or from the lobectomy?
3 A. Yes, it was from the autopsy.
4 Q. And as I understand it, you
5 prepared ten slides from the tumor tissue and
6 ten slides from a kidney as a normal control;
7 is that correct?
8 A. That's correct. And also provided
9 one slide from each of those blocks that was
10 stained for their review.
11 Q. That was with an H&E stain?
12 A. H&E stain.
13 Q. Let's talk about the Feingold call.
14 Can you tell me approximately what month you
15 received that call?
16 A. I really can't. We got the call
17 from Mr. Smith to provide the tissue -- well, I

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18 can tell you exactly when. I have the -- here
19 is the letter from Mr. Smith's office, so it
20 was on May 8. I would think that the call from
21 Dr. Feingold came sometime in April.
22 Q. And for the record, you have handed
23 me from your file a letter dated May 8, 2001
24 from Brian Nace on Mr. Smith's letterhead to
25 the Department of Pathology, MetroHealth

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1 Medical Center; is that correct, doctor?
2 A. Yes.
3 Q. Would you mind if we had a copy
4 made of this and marked it as an exhibit?
5 A. That's fine.
6 MR. COFER: Off the record.
7 - - - - -
8 (Thereupon, Tomashefski Deposition
9 Exhibit 7 was marked for purposes of
10 identification.)
11 - - - - -
12 Q. Doctor, while we were off the
13 record, we marked as Deposition Exhibit 7 the
14 May 8 letter from Brian Nace to your office,
15 correct, doctor?
16 You will see at the bottom it says
17 Deposition Exhibit 7 Tomashefski.
18 A. That's correct.
19 Q. Now, you told me that Dr. Feingold
20 called you and suggested that some additional
21 testing be conducted; is that correct?
22 A. Yes.
23 Q. Did he tell you why he thought
24 additional testing should be conducted?
25 A. He didn't go into details, but I

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1 think it was my impression that additional
2 testing might further support the contention
3 that this was a smoking-related lung tumor.
4 Q. About how long did you talk with
5 Dr. Feingold on the telephone?
6 A. It was only about a ten-minute
7 conversation.
8 Q. Did that call precede the May 8
9 letter from Mr. Nace?
10 A. I believe that came before the
11 letter from Mr. Nace.
12 Q. So Dr. Feingold called you and
13 suggested some testing might further bolster
14 your opinion and his opinion that cigarette
15 smoking caused Mr. Tomashefski's cancer,
16 correct?
17 A. That is my recollection of the
18 conversation.
19 Q. And then Mr. Nace sent you this
20 letter we marked as Deposition Exhibit Number
21 7?
22 A. That's right. And, frankly, I
23 don't know what the connection between Dr.
24 Feingold's call was and the request for the
25 tissue.

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1 Q. All you know is that Feingold
2 called you first and then you received a

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3 request from Mr. Smith's office for tissue?
4 A. That's right.
5 Q. And is it your understanding that
6 the tissue you provided to Mr. Smith's office
7 was, in fact, used by Dr. Sidransky for his
8 testing?
9 A. It is my understanding. In fact, I
10 just received the remainder of the slides that
11 he didn't use back.
12 Q. The remainder of the slides that
13 Dr. Sidransky didn't use?
14 A. That he did not use, I received
15 those back. My assumption is that the slides
16 that were not sent back were used in his
17 testing.
18 Q. And you received those from whom?
19 A. Mr. Smith brought them today.
20 Q. Today, and you did have a chance to
21 meet with Mr. Smith before your deposition this
22 afternoon; is that correct?
23 A. Yes, that's correct.
24 Q. About how long did you meet with
25 him?

1 A. About a half hour, 40 minutes.
2 Q. Prior to this afternoon, when was
3 the last time you talked with Mr. Smith about
4 this case?
5 A. Well, as we have been setting up
6 this deposition, I have talked to him off and
7 on, I would say, in the last couple weeks.
8 Q. Thank you, doctor. Now, let's
9 refer to Deposition Exhibit Number 1, and this
10 is your October 20, 1997 initial expert report
11 in this case, correct, doctor?
12 A. Yes.
13 Q. Now, your deposition was taken
14 shortly after you provided that report,
15 correct?
16 A. It was taken in December, so it
17 would have been a couple of months after this.
18 Q. And since that deposition was taken
19 in December of 1997, some new information has
20 been developed in this case; isn't that
21 correct?
22 A. That is correct.
23 Q. And specifically some testing was
24 done at your request, is that right, doctor?
25 A. Yes.

1 Q. You commissioned a Dr. Offerhaus to
2 do a P-53 analysis and K-ras testing at
3 condon-12; is that right?
4 A. Actually Dr. Offerhaus was asked to
5 do the K-ras. We did the P-53 analysis here.
6 Q. And then you commissioned the R.J.
7 Lee Group to do a fiber burden analysis?
8 A. Not only fiber burden, but also
9 mineral particulate analysis.
10 Q. And then recently Dr. Sidransky did
11 this LOH, loss of heterozygosity testing that
12 is referenced in Tomashefski Exhibit 3; is that
13 right?

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14 A. In the letter to Mr. Smith.
15 Q. Which I believe is marked
16 Deposition Exhibit 3?
17 A. That is correct, yes.
18 Q. For purposes of the opinions you
19 are going to express at trial in this case, are
20 you relying on any information other than what
21 you have already discussed in your prior
22 deposition and the P-53 testing, the K-ras
23 testing the fiber burden analysis and the LOH
24 testing?
25 A. I am also rendering opinions based

1 on the discussions in my subsequent report and
2 all of those articles that I reference in that
3 report which were not referenced in the
4 previous report prior to the deposition. And I
5 have also reviewed a number of other articles,
6 and I'm providing that file here that I would
7 like to draw on in my testimony if necessary.
8 Q. Okay. Let's just make sure the
9 record is clear then, because what I want to do
10 when I leave today, I want to make sure that I
11 have a complete understanding of the materials
12 that you are relying on for your opinions, all
13 right?
14 A. Yes.
15 Q. He have the three reports we have
16 marked as Tomashefski Exhibits 1, 2 and 3,
17 right?
18 A. Yes.
19 Q. We have your testimony from the
20 December, 1997 deposition, correct?
21 A. Correct.
22 Q. And in addition, you handed me a
23 file that looks like a number of materials in a
24 manila envelope, right?
25 A. These are materials which I have

1 reviewed prior to this deposition and I think
2 they are relevant to issues raised in this
3 case.
4 Q. Could you tell me where you
5 obtained the materials that are in the file
6 that you just handed me?
7 A. These were obtained in some
8 instances from journals that I subscribe to, in
9 other instances from copies of journals that I
10 encountered or looked up.
11 Q. Are these materials that you
12 collected yourself?
13 A. Yes.
14 Q. Did anyone suggest to you that you
15 review these materials?
16 A. No. These are, I thought, relevant
17 materials that I personally thought were
18 important.
19 Q. You did not receive these materials
20 from Mr. Smith or Dr. Feingold or anyone else?
21 A. No. I don't believe that any of
22 those were received from anybody other than at
23 my own initiation. I may have asked the
24 library to track down the reference for me and

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25 copy it, but those are all my own references.

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1 Q. Can you tell me whether you
2 acquired and reviewed these materials before or
3 after Dr. Sidransky's LOH testing?
4 A. Most of them I acquired and
5 reviewed before Dr. Sidransky's LOH testing.
6 After Sidransky's, there is the article by
7 Sidransky which I have reviewed.
8 Q. And for the record, what you are
9 referring to is his article of February, 2001
10 in Cancer Research entitled Chromosomal
11 Alterations in Lung Adenocarcinoma from Smokers
12 and Nonsmokers; is that correct, doctor?
13 A. Yes. I reviewed that in the
14 context of reviewing his report and several of
15 the other papers recently added, I believe,
16 after I had received Sidransky's report, but
17 they are not really related to that, they are
18 related to other issues.
19 Q. First is it all right if I change
20 the order of the materials in this file?
21 A. Sure.
22 Q. What I'm doing is as I look through
23 them, it looks like generally speaking the
24 materials can be divided into two categories,
25 either epidemiological studies that pertain to

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1 I'll call it the declining risk or the
2 persistent risk of nonsmokers once they quit
3 smoking?
4 A. Smokers and nonsmokers, right.
5 Q. And the other materials generally
6 look like the sorts of molecular testing that
7 Dr. Sidransky did, something related; is that
8 right?
9 A. Either that or general review on
10 the molecular biology of lung cancer, including
11 some articles on the relationship of mineral
12 fibers to lung cancer.
13 Q. And actually as I look at it, it
14 looks like you have three categories,
15 epidemiology on cancer risk for smokers,
16 nonsmokers and former smokers, correct?
17 A. Yes.
18 Q. Some articles on molecular biology,
19 including Dr. Sidransky's articles, right?
20 A. Yes.
21 Q. And at least one article on
22 exposure to silica and risk of lung cancer?
23 A. Yes. And I believe there is one on
24 interstitial fibrosis and risk of lung cancer.
25 Some of these issues were raised in the

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1 previous deposition in 1997. And also you will
2 see here a list of the textbooks, all of which
3 I have read and which I consider to be standard
4 reference texts that I would refer to.
5 Q. What we will do at the break,
6 doctor, is make a copy of these materials.
7 A. Sure.
8 Q. I'm going to put these right here
9 so we can keep track of it.

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10 Let me just go ahead and just kind
11 of establish the record of your successive
12 reports, all right? Your first report dated
13 October 20, 1997, which we have marked as
14 Deposition Exhibit Number 1, do you have that
15 in front of you?
16 A. Yes, I do.
17 Q. This report was prepared before the
18 P-53 testing, the K-ras testing, the fiber
19 burden analysis or the LOH testing was done,
20 correct?
21 A. That is correct.
22 Q. Your second report dated March 13,
23 1998, which we have marked as Tomashefski
24 Exhibit 2, was prepared after the P-53 testing,
25 the K-ras testing and the fiber burden

1 analysis, right?
2 A. Yes.
3 Q. But before Sidransky did the LOH
4 testing?
5 A. That's correct.
6 Q. And finally report number 3, the
7 letter just references the LOH testing?
8 A. That's right.
9 Q. How have your opinions in this case
10 changed since your first deposition was taken?
11 A. They have changed -- my opinion
12 that Mr. Tompkin's lung cancer was caused by
13 cigarette smoking has not changed. In fact, I
14 believe more strongly now than I did then that
15 the smoking induced lung cancer.
16 At the time of the initial
17 deposition, I believe I had excluded asbestos
18 as a cause, and after the fiber analysis, which
19 showed a high asbestos content on the order of
20 over a million fibers per gram, I believe that
21 asbestos is a contributory factor in the
22 causation of his lung cancer.
23 I am more certain than I was at the
24 time of the deposition that other factors have
25 been excluded to the extent that I can exclude

1 them, and I think that Dr. Sidransky's report
2 really fortifies the opinion that this tumor
3 was caused primarily by cigarette smoking.
4 Q. When you say that asbestos is a
5 contributory factor, what do you mean by that?
6 A. A cofactor, that it acted, I
7 believe, synergistically with his cigarette
8 smoking exposure to intensify his risk for
9 developmental cancer, and that I believe I
10 stated in my second report.
11 Q. Do you consider asbestos to be a
12 cause of Mr. Tompkin's lung cancer?
13 A. Yes.
14 Q. Have you made any effort to
15 apportion the causation between cigarette
16 smoking and asbestos exposure?
17 A. No. I don't know that anybody can
18 do that. Only in the sense that of the two
19 carcinogens, the cigarette smoking is the more
20 potent, but when the two are acting together,

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21 they have an effect which is greater than the
22 additive effect of each.
23 So I believe that cigarette smoking
24 is certainly the more important factor, but the
25 asbestos, I believe, is there in sufficient

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1 quantity that it would have acted in a
2 synergistic way with the lung cancer to
3 intensify the risk of lung cancer due to both
4 exposures.
5 Q. What I'm going to do, just so we
6 can make the record clear, I'm going to ask the
7 reporter to mark the manila folder as Exhibit
8 8, composite Exhibit 8. Then what we will do
9 at the break, we will make copies of the
10 individual articles and we will identify them
11 as 8-A, B, C, whatever, all right?
12 - - - - -
13 (Thereupon, Tomashefski Deposition
14 Exhibit 8 was marked for purposes of
15 identification.)
16 - - - - -
17 Q. The materials that you reviewed and
18 collected in Deposition Exhibit 8, specifically
19 those materials dealing with molecular biology
20 and genetics, did you collect any of those
21 before you saw Dr. Sidransky's testing?
22 A. Yes. Those were in my file.
23 Q. What was it that caused you to
24 start collecting materials on molecular biology
25 and genetic testing?

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1 A. Well, in fact, this is really
2 becoming more and more of an important area in
3 the understanding of tumors, including tumors
4 of the lung, and as part of my role as director
5 of the teaching program and as a preliminary
6 pathologist, it is important for me to
7 understand this area, so I think that was my
8 main motivation in collecting these articles,
9 to gain a better understanding of the molecular
10 biology of lung cancer.
11 Q. Is this something that you did
12 independent of your work in the Tompkin case or
13 was this done to provide you with more
14 information for your opinions in this lawsuit?
15 A. I believe at the time that I stated
16 and collected those articles, and you can look
17 at the date on some of them, that this was
18 prior to me even being aware that they were
19 going to have this deposition, so this would
20 have been part of my collecting materials for
21 my file on tumors of the lung.
22 Q. When you say before you were aware
23 of this deposition, you mean the deposition we
24 are conducting today?
25 A. That's correct.

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1 Q. It was after your December 20, 1997
2 deposition though, correct?
3 A. Yes.
4 Q. You knew after your December 20,
5 1997 deposition that you would be called upon

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6 to give testimony at trial in this case, right?
7 A. Well, I understood that a decision
8 was made where the trial would not take place,
9 and then at a later time I was told that there
10 would be an appeal, and the collection of these
11 articles, at least many of them, was totally
12 independent of what was going on.
13 Q. That's what I was trying to ask you
14 is whether the purpose for collecting these
15 articles was to permit you to give testimony in
16 the Tompkin case, or whether this was just part
17 of your general keeping up with developments in
18 science?
19 A. I would say the latter, and I have
20 a very extensive file on pulmonary pathology,
21 and every month I'm going through journals,
22 tearing articles and putting them in that file,
23 and I would have taken these articles and
24 copied them, at least the ones on the general
25 reviews of molecular biology, regardless of

1 whether I was going to testify in the Tompkin
2 case.
3 Q. I think I know the answer to this,
4 but let's nail it down for purposes of the
5 deposition, all right?
6 Your first report essentially says,
7 this is the October 20, 1997, your ultimate
8 opinion is that cigarette smoking was a cause
9 of Mr. Tompkin's lung cancer, correct?
10 A. That's correct.
11 Q. Your second report dated March 13,
12 1998 essentially says that it was cigarette
13 smoking and asbestos which acted together to
14 cause Mr. Tompkin's lung cancer, right?
15 A. That's correct.
16 Q. Your third report says, quote, the
17 results of -- and you are referring to Dr.
18 Sidransky's analysis appeared to support my
19 opinion that Mr. Tompkin's lung cancer was
20 caused by his exposure to cigarette smoke. Did
21 I read this correctly?
22 A. That's correct.
23 Q. In the third report it is still
24 your view that asbestos and tobacco acted
25 together; is that right?

1 A. That is right.
2 Q. The third report only references
3 cigarette smoke?
4 A. That's right, because Sidransky's
5 study was only related to cigarette smoke.
6 Q. And, in fact, have you had an
7 opportunity to review -- I know you have
8 Sidransky's article in the February, 2001 issue
9 of Cancer Research?
10 A. That's it.
11 Q. And that doesn't deal with asbestos
12 at all, does it?
13 A. I don't think so.
14 Q. In your collection of literature,
15 have you reviewed any materials that deal with
16 this sort of LOH analysis and the effect of

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17 asbestos?
18 A. There are a couple of articles in
19 there, and these were accumulated, I believe,
20 sometime after the first deposition, and they
21 may have been stimulated by the Tompkin case,
22 because these issues were raised there that
23 talk about K-ras and P-53 related to asbestos
24 and cigarette smoking.
25 Q. Specifically it looks like there is

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1 an article, is that the International Journal
2 of Cancer?
3 A. Yes.
4 Q. K-ras Mutations in Human
5 Adenocarcinoma of the Lung: Association with
6 Smoking and Occupational Exposure to Asbestos,
7 right?
8 A. Right. When I came across that
9 article, it seemed to tie into what was going
10 on in this case. That may be one of the
11 reasons why I copied that particular article.
12 Q. And the highlighting on the
13 articles contained in Exhibit 8, is that yours?
14 A. That's mine.
15 Q. Dr. Tomashefski, assume that the
16 patient comes into your office and the person
17 is diagnosed with adenocarcinoma of the lung
18 and you know that person at one point was a
19 cigarette smoker.
20 A. Yes.
21 Q. What other information would you
22 need to reach an opinion to a reasonable degree
23 of medical certainty that cigarette smoking
24 caused that lung cancer?
25 A. Well, usually in the day-to-day

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1 practice, that's not an issue for me. My
2 practice is mainly in the diagnosis of tumor,
3 not so much into causation, although I do try
4 to understand what the cause is.
5 In a person with an adenocarcinoma,
6 I think I would go through many of the thought
7 processes that I went through in this case: I
8 would want to know the smoking history, the
9 details of that smoking history, whether there
10 were any other exposures that might be related
11 to the cause of lung cancer, whether there was
12 any family history of lung cancer, and I would
13 do whatever tests were within my routine
14 practice to try to document evidence of
15 exposures to these different agents.
16 Q. Why is it that you would want to
17 know the patient's smoking history?
18 A. Because I believe that over 90
19 percent of lung cancers, including
20 adenocarcinoma, is caused by cigarette smoking.
21 Q. What is it about the patient's
22 smoking history that you would need to know?
23 A. Specifically I would want to know
24 when was there a smoking history and was it
25 more than trivial.

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1 Q. And how would you define more than

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2 trivial?
3 A. It is very subjective, and I can't
4 give a good cutoff.
5 Q. When you say it is very subjective,
6 do you mean it is your subjective judgment?
7 A. I don't think there is a good
8 definition of what is more than trivial, at
9 what point cigarette smoking becomes an
10 important risk factor, but when we start
11 looking at smoking more than a pack a day, that
12 to me is more than trivial.
13 Q. When you say more than a pack a
14 day, would it matter to you how long that
15 person was smoking more than a pack a day?
16 A. Again it becomes subjective. If
17 they smoke a pack a day for a week and that was
18 it, to me that wouldn't be important, but if
19 that smoking a pack a week was sustained, then
20 it would be an important factor.
21 Q. And I think you misspoke. You said
22 smoking more than a pack a week, what you meant
23 was smoking more than a pack a day?
24 A. Yes.
25 MR. SMITH: Forgive me. I think

1 what he really meant, if we are going to get
2 technical, is more than a pack a day for more
3 than a week.
4 A. For more than a week.
5 Q. I misheard you. I thought you
6 misspoke.
7 MR. SMITH: I think he did, but I
8 think you did too.
9 A. Maybe you want to read it back.
10 Q. What we will do is just go through,
11 because I do want this to be clear. You say
12 you would want to know whether the smoking
13 history was more than trivial, correct, doctor?
14 A. Yes.
15 Q. You say what smoking history was
16 more than trivial is subjective, right?
17 A. Yes.
18 Q. You talked about some of the
19 components that you would consider in
20 determining in your judgment whether the
21 smoking history was more than trivial, right?
22 A. Yes.
23 Q. You would be interested in the
24 amount the person smoked, right?
25 A. That's correct.

1 Q. Would you be interested in the
2 duration of smoking?
3 A. The amount, the duration, when they
4 smoked, when they stopped smoking.
5 Q. Would you be interested in the age
6 of the person when they began smoking?
7 A. That would be of interest to me,
8 yes.
9 Q. Would you be interested in the age
10 of the person when they quit smoking?
11 A. Yes.
12 Q. Would it matter to you how much

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13 time had passed between when the person quit
14 smoking and when the person developed lung
15 cancer?
16 A. Certainly one would want to
17 consider that, especially in light of other
18 potential exposures.
19 Q. Would the person's inhalation
20 practices be something that was important to
21 you?
22 A. Well, if the smoker only lit the
23 cigarette versus deep inhalation, certainly
24 that would be a difference.
25 Q. What is your understanding of Mr.

1 Tompkin's smoking history?
2 A. My understanding, I think, as I
3 summarized it in one of my reports, was that he
4 started at a relatively young age, about the
5 age of 16, that he initially smoked
6 sporadically, getting cigarettes from his
7 friends, and then going into the period of
8 about 1955 to 65, he began smoking more
9 heavily, until in the period between 60 and 65,
10 he was smoking up to three packs a day.
11 Q. Are you familiar with the concept
12 pack years?
13 A. Yes, I am.
14 Q. Could you tell the jury what that
15 is?
16 A. A pack year is smoking one pack of
17 cigarettes per day for an entire year.
18 Q. And it doesn't matter whether it is
19 two packs a day for a half a year, that equals
20 one pack year, right?
21 A. It is the number of packs a day.
22 If he smokes two packs a day for half a year,
23 that would be the equivalent of one pack year,
24 yes, one pack year.
25 Q. Essentially you multiply the amount

1 the person smoked by the duration of smoking
2 and come up with a year?
3 A. That's right.
4 Q. Do you have an estimate of what Mr.
5 Tompkin's pack year smoking history was?
6 A. I believe my understanding was
7 about 19 pack years.
8 Q. Let me show you what we marked as
9 Deposition Exhibit 4, Tomashefski Exhibit 4. I
10 showed you that off the record before the
11 deposition began, correct, doctor?
12 A. I very briefly glanced at it as it
13 flashed across my visual field.
14 Q. Take a second and look at it, and
15 let me tell you while you were doing that that
16 that was produced to us in Dr. Sidransky's
17 deposition, and Dr. Sidransky testified that
18 Mr. Smith provided that to him, all right?
19 A. Okay.
20 Q. And take a second to just look at
21 that if you would.
22 A. This pretty much summarizes the
23 scenario as I visualized it. He started slow,

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24 and things began to escalate until in the 60s
25 he was smoking up to three packs per day.

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1 Q. If you look at the first page of
2 that exhibit, it says Smoking History From the
3 11-18-94 Video Deposition Testimony. Did I
4 read that correctly?
5 A. Yes.
6 Q. You read Mr. Tompkin's November 18,
7 1994 video deposition transcript, didn't you?
8 A. Yes, I did. But I did not reread
9 that in preparation for this deposition. I
10 read it prior to the previous deposition.
11 Q. Let me now hand you what has been
12 marked as Deposition Exhibit 5, and let me tell
13 you what this is: This is a chart that my
14 office prepared, and it is entitled David
15 Tompkin's Video Deposition Testimony. If you
16 will compare it with the history that is on
17 Exhibit 4, you will find it is very similar
18 until you get to 1961, all right?
19 And the difference is on Exhibit 4,
20 under Amount Smoked, it says two to three packs
21 per day from 1961 through 1965 on Exhibit 4,
22 correct?
23 A. 1961 through 1965, that's correct.
24 Q. On Exhibit 5, what it says is two
25 to two and a half packs per day, and then,

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1 quote, some days you might hit three. Did I
2 read that correctly?
3 A. Yes.
4 Q. And I will represent to you that
5 this was taken from Mr. Tomashefski's video
6 testimony that he smoked two to two and a half
7 packs per day, some days he might hit three.
8 A. All right.
9 Q. Let me show you what has been
10 marked as Tomashefski Exhibit 6. This is
11 another chart my office prepared, David
12 Tompkin's Smoking Testimony. What it does is
13 lays out the amount of smoking and the years
14 smoked that is set out in Defendant's Exhibit
15 5; do you see that?
16 A. Yes.
17 Q. The one difference is at the far
18 end it calculates pack years based on Mr.
19 Tompkin's testimony; do you see that?
20 A. Yes.
21 Q. And based on the calculations in
22 Exhibit 5, the total pack years is 15 pack
23 years; do you see that?
24 A. Yes.
25 Q. Would it make a difference in your

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1 opinion -- do you want to take a second to add
2 that up?
3 A. No. I believe the figures.
4 Q. And what I'll represent to you is
5 that this was taken from Mr. Tompkin's sworn
6 testimony, all right? Okay?
7 A. Yes.
8 Q. For purposes of your opinions in

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9 this case, do you accept as true and accurate
10 David Tompkin's sworn testimony in his November
11 18, 1994 deposition as to what he smoked, how
12 much he smoked and how long he smoked?
13 MR. SMITH: I want to object to
14 form.
15 A. I accept what is in Mr. Tompkin's
16 deposition. I don't necessarily accept these,
17 because I don't know if they are accurate
18 portrayals.
19 Q. And that's fair. I understand
20 that. So for purposes of your opinion,
21 whatever he said in his deposition as to what
22 he smoked, how much he smoked and how long he
23 smoked, you accept as true and accurate for
24 purposes of your opinion, right?
25 A. Absolutely. I have no other basis

1 for understanding how much he smoked other than
2 what the man said he smoked.
3 Q. Thank you. Why did you decide to
4 do the P-53 analysis, the K-ras analysis and
5 the fiber burden analysis?
6 A. The P-53 and the K-ras analyses
7 were done mainly because of information that I
8 became aware of that these molecular biology
9 markers tended to be more common in patients
10 who had smoking induced carcinomas, and the
11 thought was if we could prove that there was a
12 P-53 mutation or a K-ras mutation, it would
13 bolster the opinion that this was a
14 cigarette-related carcinoma.
15 Q. Let's talk specifically about the
16 P-53 testing, then we will talk about K-ras in
17 a moment.
18 A. All right.
19 Q. You told me that the P-53 testing
20 was done here at your hospital?
21 A. That's right.
22 Q. Was it your understanding that Dr.
23 Offerhaus had the ability to do the P-53
24 testing as well as the K-ras testing?
25 A. I don't think we ever really talked

1 about P-53 testing, and I'm sure that he might
2 have done P-53 testing, but we had the
3 capabilities here of doing P-53 testing, and it
4 is a much easier test to do.
5 Q. Than the K-ras testing?
6 A. Than the K-ras, because the P-53
7 testing is an immunohistochemical test.
8 Q. It is a stain?
9 A. It is a test, and we evaluate where
10 the immunohistochemical is, and, in fact, we
11 had a P-53 marker in our armamentarium, and we
12 used it and applied it to our tumors as a
13 prognostic marker.
14 Q. What was the word you just said and
15 how do you spell it?
16 A. Armamentarium.
17 Q. How do you spell it?
18 A. A R M A M E N T A R I U M.
19 Q. And as I understand I, doctor,

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20 there are two different ways to test for loss
21 of a P-53 gene, correct?
22 A. I know there are more than one way,
23 and I'm not an expert in the molecular biology
24 testing of P-53.
25 Q. Is it your understanding that one

1 way to test is the staining you described that
2 you did?
3 A. That's right.
4 Q. And is it your understanding that
5 another way to do the P-53 testing is a PCR
6 analysis?
7 A. Yes.
8 Q. Did you know that at the time that
9 you elected to test P-53 through staining? Did
10 you understand my question?
11 A. Yes, of course I understood. The
12 question is did I know that there was a PCR
13 method? I don't know that I did.
14 Q. The reason I ask is this: Dr.
15 Sidransky, and I think Dr. Feingold as well,
16 said when they looked at the P-53 testing, that
17 PCR is a more precise method than staining; is
18 that your understanding?
19 A. Yes. Back in 1997, I think we were
20 just starting to use PCR testing, and on the
21 other hand, the immunohistochemical evaluation
22 was already well accepted and it is one test.
23 Q. And you chose that because it was
24 something you were comfortable with, something
25 you were familiar with and something that could

1 be done at your hospital, correct?
2 A. That's right. And that's another
3 issue that at the time this testing was done,
4 there were fairly strict time constraints on
5 getting it done because of the testing had to
6 be done before a certain date. So in order to
7 facilitate that, I thought the P-53 testing
8 could be readily done within a couple of days
9 here in this department. That's why I chose to
10 do the immunohistochemical stain.
11 Q. At the time since you did the P-53
12 analysis through staining, have you done the
13 P-53 analysis through PCR testing?
14 A. No, I have not.
15 Q. Have you discussed that with
16 anyone?
17 A. No.
18 Q. Is there any reason that you
19 haven't done that?
20 A. Well, for one thing, the Tompkin
21 case was just revived several weeks ago, and
22 for another thing, the P-53 testing that I
23 originally did on the original tissue, that
24 block is no longer in my possession. I think
25 it was all used up by Dr. Offerhaus in doing

1 the K-ras.
2 Q. When you say the original tissue,
3 what tissue are you referring to?
4 A. The mediastinal biopsy.

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5 Q. And as I understand it, there were
6 several potential sources of tissue that could
7 have been tested, right?
8 A. Yes.
9 Q. You had some biopsy material, the
10 mediastinal biopsy that you personally did use
11 for the K-ras and P-53?
12 A. That's right.
13 Q. Then there was lobectomy where the
14 lung was taken out with the tumor, right?
15 A. Right.
16 Q. That was not used for the K-ras or
17 P-53 testing, right?
18 A. No, it was not.
19 Q. Then after Mr. Tompkin passed away,
20 you performed an autopsy on his body, right?
21 A. That is correct.
22 Q. And, of course, there was all sorts
23 of tissue and material that could then be
24 tested as result of the autopsy, right?
25 A. That's right.

1 Q. Do you think that the results of
2 your P-53 and K-ras testing would differ if
3 they were performed on tissue other than from
4 the mediastinoscopy biopsy?
5 A. No, I don't know. As you said, if
6 we could do a PCR analysis for P-53, perhaps
7 that might disclose a mutation that the
8 immunohistochemical stain did not. I have no
9 way of knowing that.
10 Q. In terms of the current record, you
11 chose staining because you were familiar with
12 it, comfortable with it and it could be done at
13 this hospital, right?
14 A. That's right.
15 MR. SMITH: I object to the form.
16 He also said because of time.
17 Q. And you obviously felt that that
18 was a valid method of analysis, right?
19 A. At that time, yes.
20 Q. And since then you have not
21 conducted PCR testing for the P-53 mutation
22 with any of the remaining tissue available?
23 A. No, I have not, and we do not do
24 PCR testing --
25 Q. For P-53 in your hospital?

1 A. That's right. So it would have
2 necessitated sending the issue out to a
3 specialist.
4 Q. What were the results of your P-53
5 testing?
6 A. It was negative.
7 Q. And negative means what?
8 A. Negative means that the P-53
9 product was not being overexpressed in the
10 cells so that it could be identified by the
11 immunohistochemical stain.
12 Q. And the idea behind the P-53
13 testing is that you tend to overexpress in the
14 P-53 gene in tumors of smokers?
15 A. That's correct.

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16 Q. So the thinking was this sort of
17 molecular testing might provide additional
18 information to support the opinion that
19 cigarette smoking was a cause of that tumor,
20 correct?
21 A. That's right.
22 Q. And as a matter of fact, at the
23 time that you decided to do that sort of
24 analysis, there was quite a bit of literature
25 talking about P-53 overexpression and cigarette

1 smoking's role in causing that, right?
2 A. Yes.
3 Q. And that was the motivation behind
4 the test, correct?
5 A. That is correct.
6 Q. The K-ras testing, why was it you
7 decided to do the K-ras analysis?
8 A. Basically the interest in the K-ras
9 analysis was stimulated by the paper of Dr.
10 Westra in which they documented K-ras mutations
11 in adenocarcinomas of cigarette smokers and
12 even ex-cigarette smokers and proposed that the
13 K-ras could be an indicator of cigarette
14 adenocarcinoma.
15 Q. W E S T R A.
16 A. I believe he was one of the authors
17 on that paper.
18 Q. And again the thinking was this was
19 the sort of molecular testing that could be
20 conducted to determine or at least provide
21 information whether cigarette smoking caused a
22 specific adenocarcinoma, right?
23 A. It wouldn't prove it, but it would
24 bolster the opinion.
25 Q. If you saw the K-ras mutation in

1 condon-12, that would provide support for your
2 opinion that cigarette smoking caused that
3 tumor, right?
4 A. I felt it would, yes.
5 Q. And that's what the literature
6 suggested as well, right?
7 A. Yes.
8 Q. What were the results of the K-ras
9 analysis?
10 A. Results were the K-ras analysis was
11 provided by Dr. Offerhaus, and Offerhaus was, I
12 think, a colleague and collaborator of Westra,
13 he was in the department of oncology at Johns
14 Hopkins, in fact the analysis was performed in
15 his own laboratory in the Netherlands, and
16 Offerhaus did two runs on the tissue.
17 The first run I have a
18 correspondence in the file, he said he
19 identified K-ras mutation on condon-12. But
20 then he said he couldn't rely on that result
21 because a weak signal appeared in his control
22 tissue, so he had to repeat it.
23 Q. Let me stop you there. What you do
24 is you test the tumor tissue and you test a
25 control tissue, right?

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1 A. That's right.
2 Q. And what you are looking to see is
3 whether you have the mutation of condon-12 in
4 the tumor tissue but not in the control tissue,
5 right?
6 A. That's correct.
7 Q. You don't expect to find a K-ras
8 mutation at condon-12 in the control tissue,
9 right?
10 A. That is my understanding.
11 Q. And so when he found a K-ras
12 mutation in both the tumor and the control, he
13 said we need to do this over because we
14 shouldn't have the mutation in the control,
15 right?
16 A. A couple points I would like to
17 make: He indicated that the control tissue was
18 a very weak signal, and my interpretation of
19 that was that it may have been just a
20 background noise. But then when he repeated
21 the test, he did not identify the K-ras
22 mutation in the tumor tissue or in the control
23 tissue.
24 Q. So the second time he ran the test,
25 the results were negative, correct?

1 A. Right, and based on these two
2 tests, he said in this situation his practice
3 is to call the test negative.
4 Q. So for purposes of your opinion in
5 this lawsuit, are you assuming that the P-53
6 test that your hospital did was negative?
7 A. Yes.
8 Q. For purposes of your opinion in
9 this case, are you assuming that the K-ras
10 testing that Dr. Offerhaus did was negative?
11 A. Yes, but I want to put a clause
12 there that it is more equivocal than negative,
13 because the tie breaker or the third definitive
14 test was never done because of time
15 constraints.
16 Q. Now, that test was done though
17 sometime before March 13 of 1998, correct?
18 A. In fact, I believe that I got the
19 results either the day of or the day before
20 that report was due.
21 Q. And by that report, you are
22 referring to Deposition Exhibit 2, right?
23 A. The second report that I issued on
24 the Tompkin case.
25 Q. So the bottom line is you got the

1 results of the K-ras testing over three years
2 ago, right?
3 A. Yes.
4 Q. To your knowledge has anyone done
5 any subsequent K-ras testing on Mr. Tompkin's
6 tissue to confirm that either there was
7 mutation or there was not a mutation?
8 A. Not to my knowledge.
9 Q. So what the record is left with
10 then is that the lab that you sent it to did
11 one test and found that it had a weak signal of

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12 the control and a positive in the tumor, did a
13 second confirmatory test, found that they were
14 both negative, correct?
15 A. Correct.
16 Q. Offerhaus construed that as a
17 negative K-ras finding, right?
18 A. That's right.
19 Q. He said maybe we ought to do a
20 third as a tie breaker?
21 A. Correct. He said in his normal
22 practice he would, but because of time
23 constraints, he did not.
24 Q. That was over three years ago, and
25 to your knowledge the tie breaker has never

1 been done?
2 A. It has never been done. I don't
3 know if Offerhaus still has tissue that he
4 could do the third test. I have not heard from
5 Offerhaus since I received his report.
6 Q. And you don't know whether that
7 testing could be done on the tissue that is
8 currently available, correct?
9 A. There is still tumor in the blocks
10 of Mr. Tompkin's lung tissue. Yes, it could be
11 done.
12 Q. But it has not been done?
13 A. It has not been done.
14 Q. Why did you decide to do the fiber
15 burden analysis?
16 A. I decided to do a fiber burden
17 analysis because asbestos was one carcinogen
18 that I could evaluate. A lot of these
19 carcinogens that were speculated on at the time
20 of the previous deposition, things like
21 aromatic hydrocarbon exposure and fat content
22 of the diet and infections and a lot of other
23 nebulous things there was no way to prove one
24 way or the other, but we could get a handle on
25 asbestos.

1 In fact, in his deposition he said
2 he had been exposed to asbestos, and I went
3 about it in a two-step approach. First was to
4 look for asbestos bodies, I found none, but
5 that didn't exclude asbestos being present.
6 Q. Can I stop you right there just to
7 make sure the record is clear. When you said
8 you looked for asbestos bodies, as I understand
9 what that is is that is a fiber coated with
10 iron?
11 A. That's correct.
12 Q. And because the asbestos fiber is
13 coated with iron, that is something that if it
14 is present, you can see through a regular light
15 microscopy, right?
16 A. Right. The naked fibers are almost
17 impossible to visualize by light microscopy,
18 but if they were coated, you can stain for
19 iron, and those would appear as bright blue
20 asbestos bodies which can be not only
21 visualized but quantitated, and I did that in
22 this case, did not see any.

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23 That, however, didn't exclude the
24 possibility that there was still significant
25 asbestos burden, and I wanted to pursue it at

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1 one additional level.
2 Also since these issues were raised
3 in the deposition, I thought it was important
4 to thoroughly evaluate the tissue to the extent
5 that I could looking for other potential
6 carcinogens.
7 Q. Let me just ask you about that,
8 because that's where I was going, okay?
9 A. Yes.
10 Q. Your deposition was taken after you
11 had provided the first report, your first
12 report, I believe it is October 20, 1997?
13 A. Yes.
14 Q. Remarked as Exhibit 1, right?
15 A. That's right.
16 Q. Then Bruce Sheffler took your
17 deposition in this case a couple of months
18 later, right?
19 A. In December, yes.
20 Q. And he asked you about your
21 opinions in this case and your bases for those
22 opinions, right?
23 A. Yes.
24 Q. He did ask you a number of
25 questions about whether you had conducted a

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1 fiber burden analysis, right?
2 A. I don't remember whether he asked
3 me whether I had conducted a fiber burden
4 analysis.
5 Q. Did he ask you whether you had
6 evaluated the lung?
7 A. I don't remember that.
8 Q. But you said, I thought you told
9 me, in the deposition these issues came up and
10 that's why you -- one reason you wanted to do
11 additional testing, to determine whether, in
12 fact, asbestos was present?
13 A. That certainly is true.
14 Q. I mean these were issues that were
15 discussed in the deposition, right?
16 A. As I recall, we touched base on a
17 large number of possible, potential,
18 theoretical carcinogens, and asbestos was one
19 of them, and I had evaluated the lung for
20 asbestos at a very superficial level looking
21 for the bodies, and in thoroughly working up
22 the case, I wanted to do the fiber count.
23 Q. Okay. So you did the fiber count,
24 and what were the results?
25 A. The results were that there was

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1 on average, and I would like to refer to my
2 report --
3 Q. Please do. You are referring to
4 Tomashefski Exhibit 2, correct?
5 A. Exhibit 2. The results of the
6 mineral analysis were that there were
7 significant numbers of asbestos fibers present

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8 in Mr. Tompkin's digested lung. Looking at the
9 longer fibers, there was an average of over a
10 million fibers per gram of dry lung, and in
11 terms of total asbestos fiber, both the long
12 and the short fibers, there was an average of
13 over 5 million fibers per lung.
14 Q. So that put his fiber --
15 A. Per gram of lung, per gram of lung.
16 Q. So the big picture, that put Mr.
17 Tompkin's fiber burden within the range of low
18 in asbestosis?
19 A. In my opinion, based on the
20 articles and tables that I had reviewed, that
21 this number of 5 million fibers per gram of dry
22 weight certainly was above background exposure
23 and fell within the very low end of the
24 asbestosis range or of that exposure that could
25 cause asbestosis.

1 Q. And let me see if I can find and
2 can articulate the significance of whether Mr.
3 Tompkin had asbestosis, okay?
4 A. I did not believe that he did.
5 Q. But let me see if I can articulate
6 and understand why that would be significant,
7 all right?
8 A. Sure.
9 Q. Your view is that asbestos is not a
10 cause of lung cancer unless the fiber burden is
11 sufficient that the person actually has
12 asbestosis; is that correct?
13 A. Not exactly. My view is that
14 asbestos is a relatively weak carcinogen in and
15 of itself for the production of cancer of the
16 lung, primary carcinomas of the lung, that
17 usually it acts in concert with cigarette smoke
18 where it produces a synergistic effect, that
19 based on my reading of the literature, that the
20 level of asbestos that needs to be present in
21 order to produce this synergistic effect with
22 cigarette smoking is the level which causes
23 asbestosis.
24 Therefore, in order to determine
25 that asbestos is a cause of lung cancer in

1 concert with cigarette smoking, one needs to
2 identify asbestosis in the lung, or if off
3 fiber analysis, a part fiber burden within the
4 asbestos range.
5 Q. Can asbestos in and of itself
6 without cigarette smoking cause adenocarcinoma?
7 A. Yes. But it is a very weak
8 carcinogen in and of itself, and, in fact,
9 there is not a lot of information in the
10 literature about asbestos as a cause of lung
11 cancer in the absence of cigarette smoking
12 because there have been very very few
13 individuals that have ever been identified who
14 have asbestos-induced lung cancer who have not
15 been smokers, so it is difficult to get that
16 population.
17 Q. You have said a couple of times in
18 this deposition, you have used the word synergy

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19 or synergistic effect, correct?
20 A. Yes.
21 Q. And, in fact, in your second
22 report, Exhibit 2, on page 6, you say, quote,
23 it is my opinion to a reasonable medical
24 certainty that Mr. Tompkin's primary lung
25 adenocarcinoma was caused --

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1 A. I'm sorry.
2 Q. Do you want me to find that for
3 you?
4 A. Yes.
5 Q. I was reading from the notes. It
6 is on page 6. Let me show it to you then I'll
7 read it to you.
8 A. I see it.
9 Q. Starting actually in the middle of
10 the second sentence on the next to the last
11 paragraph, you write, quote, It is my opinion,
12 within a reasonable medical certainty, that Mr.
13 Tompkin's primary lung adenocarcinoma was
14 caused by the combined, synergistic effect of
15 cigarette smoke and asbestos. Did I read that
16 correctly?
17 A. Yes.
18 Q. What do you mean by combined
19 synergistic effect?
20 A. Well, as I have already explained
21 earlier, that the two carcinogens acting
22 together produces an effect which is greater
23 than if you added the risk of each.
24 Q. When you say the two acting
25 together, are you saying that they interact

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1 mechanically in some way?
2 A. I don't think anybody really knows
3 how asbestos and cigarette smoke interact to
4 produce this synergistic effect.
5 Q. What studies are you relying on for
6 your opinion that there is a synergistic
7 relationship between smoking and asbestos?
8 A. This is the dogma which you will
9 find in almost all of the textbooks of
10 pulmonary pathology and the textbooks of
11 occupational pathology which I have listed in
12 my reference list, and I think it goes back to
13 the original work of Selikoff where he looked
14 at the insulation workers and looked at
15 insulation workers who smoked, those who smoked
16 and had exposure to asbestos and those that did
17 not smoke.
18 Q. Dr. Tomashefski, have you actually
19 reviewed the underlying epidemiologic studies?
20 A. In my career I know I have read
21 Selikoff's reports, including the one in JAMA.
22 I have not read them recently.
23 Q. When were Selikoff's reports
24 published?
25 A. Back in the 70s, I believe.

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1 Q. Have you read them within the last
2 10, 15 years?
3 A. Well, I have been in practice about

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4 19 years, so probably I have read them within
5 the last 15 years.
6 Q. But is it fair to say that you are
7 not conversant with the specifics of those
8 studies, but rather are generally familiar with
9 the results?
10 A. That would be a fair statement.
11 I'm generally familiar with the results.
12 Q. It is true, isn't it, that those
13 studies that report on synergy between asbestos
14 and smoking involved asbestos workers such as
15 asbestos miners or insulators, correct?
16 A. I'm not sure about the miners. I
17 know about the insulators.
18 Q. It is true, isn't it, that the
19 smokers that were evaluated in those studies
20 were current smokers?
21 A. I don't remember the details.
22 Q. Do you recall whether they were
23 predominantly heavy smokers?
24 A. Once again, I don't remember the
25 details.

1 Q. Are you aware of any study that
2 shows a synergistic relationship between
3 smoking and asbestos where a person with an
4 approximately 15 pack year history or 19 pack
5 year history and had not smoked for over 25
6 years before he was diagnosed with lung cancer?
7 A. I'm not aware that there are any
8 primary studies that look at specifics, meaning
9 those criteria. I think it would be very
10 difficult to analyze such a cohort of patients.
11 I can tell you, however, that in
12 policy statements and in summary reviews on the
13 pathological analysis of asbestos-related lung
14 cancer, statements are made saying that
15 cigarette smoke should be considered as a
16 cofactor even in patients who are ex-smokers
17 without going into any details of how much they
18 smoked.
19 Q. And I think you referred to that in
20 your first deposition, there was a policy
21 statement that you referred to in terms of
22 their suggestions of general principles how one
23 should apportion causation, correct?
24 A. That's right, and, in fact, I think
25 I referenced that in my second report, and that

1 is the reference number 9.
2 Q. Thank you. Doctor, have you
3 developed any new or additional expertise since
4 your last deposition?
5 A. No. Ever since I started in this
6 business, it's been pulmonary pathology,
7 occupational pathology, mediastinal and plural
8 pathology.
9 Q. I know you have done some reading
10 since the last time your deposition was taken,
11 but in December of 1997, you told us that you
12 were not an expert in epidemiology. Is that
13 still true?
14 A. That's still true.

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15 Q. And you were not an expert in the
16 carcinogenic process?
17 A. I am knowledgeable, but what you
18 consider to be an expert is someone who has
19 done work and research in the carcinogenic
20 process. I have not done that. My
21 understanding of the carcinogenic process is
22 what I have read basically.
23 Q. And is it fair to say you are not
24 an expert in molecular biology?
25 MR. SMITH: Would you define the

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1 term, because there has been some confusion as
2 indicated by his past answer. So if you are
3 going to use -- he has indicated he wasn't an
4 expert because he hadn't done primary research.
5 I would just like us not to be talking apples
6 and oranges on the definition of a word.
7 Q. First of all, how would you define
8 molecular epidemiology?
9 A. I would say the evaluation of a
10 disease process based on molecular markers.
11 Q. Would you consider yourself to be
12 an expert in molecular epidemiology?
13 A. No, I do not.
14 Q. Do you consider yourself to be an
15 expert in molecular biology?
16 MR. SMITH: Again I will object to
17 both questions on form. Go ahead.
18 MR. COFER: Thank you.
19 A. I am knowledgeable in molecular
20 biology. I have acquired knowledge through
21 reading and interaction with my colleagues. I
22 have not done primary work in that, so I don't
23 consider myself as someone who is an expert in
24 that field.
25 Q. And I think you said this, although

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1 in a different way, but is it fair to say that
2 for your original opinion that cigarette
3 smoking was a cause of Mr. Tompkin's lung
4 cancer that essentially you used the process of
5 elimination?
6 A. Basically it was to a large extent
7 a diagnosis of exclusion, yes.
8 Q. And what you did is essentially
9 said Mr. Tompkin had adenocarcinoma, right?
10 A. Yes.
11 Q. Cigarette smoking is a cause of
12 adenocarcinoma?
13 A. Yes.
14 Q. When you look at his background,
15 you don't see any other carcinogens that you
16 think could have caused it?
17 A. That's right.
18 Q. Asbestos was a potential carcinogen
19 that could have caused it. Based on the work
20 you had done at the time, there was no evidence
21 of asbestosis?
22 A. That's right.
23 Q. Since that time, you have done a
24 fiber burden analysis where there now is
25 evidence of an asbestos burden above

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1 background?
2 A. Yes.
3 Q. In fact, that burden would put Mr.
4 Tompkin in the low range of asbestosis, right?
5 A. Yes. And it is based on that fiber
6 burden that I reached a new conclusion that
7 asbestos was a co-player.
8 Q. And your current opinion is that
9 the asbestos and the cigarette smoking combined
10 to cause the cancer?
11 A. Yes, it is.
12 Q. Have you ever worked on a case with
13 Mr. Smith before?
14 A. No. The Tompkin case is the first
15 and only one.
16 Q. Have you ever worked on a case
17 before where a tobacco company was a defendant?
18 A. No, I have not.
19 Q. Did Dr. Feingold tell you that with
20 the negative K-ras and P-53 results, that it
21 would be hard to prove that Mr. Tompkin's lung
22 cancer was caused by smoking?
23 A. No, he didn't say.
24 Q. What did he say?
25 A. I inferred from his comments, and

1 again I don't remember specifically what his
2 comments were, I inferred that he felt it would
3 be difficult to prove that Mr. Tompkin's case
4 was -- his cancer was caused by cigarette
5 smoke.
6 Q. You inferred from Dr. Feingold's
7 comments when he spoke to you before Dr.
8 Sidransky's testing that Dr. Feingold felt it
9 would be difficult to prove smoking caused Mr.
10 Tompkin's lung cancer based on the state of the
11 record?
12 A. Yes, and let me also say, and I do
13 remember this, he did after he introduced
14 himself, he said I believe you are right, my
15 opinion is correct.
16 Q. And I'm just trying to understand,
17 you can't recall the exact words, I assume you
18 didn't make any notes or anything of it?
19 A. No.
20 Q. So this is just your recollection a
21 couple of months later?
22 A. Yes.
23 Q. And trying to recall basically what
24 happened is he called and said I think you are
25 right, I think cigarette smoking caused Mr.

1 Tompkin's lung cancer, right?
2 A. Yes.
3 Q. Having said that based on the
4 epidemiology, the negative K-ras, negative
5 P-53, I think it would be difficult to prove
6 that, correct?
7 A. The last part of your statement is
8 correct. He didn't say what he based his
9 opinion on, why it would be difficult to prove.
10 Q. So what Feingold said is I think it

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11 is going be difficult to prove that smoking
12 caused Mr. Tompkin's lung cancer, correct?
13 MR. SMITH: Object to the form.
14 A. It was something along those lines,
15 that it would be a tough case to prove.
16 Q. Okay. And then did he then talk
17 with you about bringing in Dr. Sidransky,
18 having him do some testing?
19 A. No. He mentioned the group at
20 Hopkins as a group to contact. He neither told
21 me what testing should be performed nor did he
22 mention any names, and the first time I heard
23 of Sidransky's name was from Mr. Smith.
24 Q. Okay. Tell me about that. When
25 did that happen? Was that the May 8 letter?

1 A. Yes. He must have -- Mr. Smith's
2 office must have contacted me a short time
3 before this saying that they had talked to Dr.
4 Sidransky at Johns Hopkins who was going to do
5 some additional testing, could I provide tumor
6 tissue.
7 Q. And when you say a short time
8 before this, so the record is clear, you are
9 referring to Deposition Exhibit 7, which is a
10 May 8, 2001 letter from Brian Nace to the
11 Department of Pathology here at MetroHealth
12 Medical Center, right?
13 A. That's right.
14 Q. And it is your recollection that
15 Mr. Smith called you sometime shortly before
16 that May 8 letter and asked you to prepare
17 tissue for Dr. Sidransky's testing, right?
18 MR. SMITH: I do have one question,
19 and I haven't objected to this, but I received
20 a different position from your folks' side of
21 the table regarding conversations with experts
22 in my belief. I don't know that the -- even
23 not being able to get a file until it was
24 determined whether or not I could see what was
25 in there. So I'm raising that just so that we

1 are all on the same wavelength.
2 MR. COFER: Okay. Would you read
3 back the question.
4 (Record read.)
5 A. I believe that was the situation.
6 Q. And that was the first time you had
7 ever heard of Dr. Sidransky, right?
8 A. It is the first time that I can
9 remember hearing of his name. In fact, when I
10 looked in my file, I did have a paper or two
11 with his name on it.
12 Q. Let me hand you your file. We have
13 not gone through and marked the subparts yet,
14 but would you please identify the papers that
15 you recall seeing that Dr. Sidransky was
16 coauthor on that you reviewed before May 8,
17 2001?
18 A. It is not in the file.
19 Q. Do you have another file with
20 materials relating to molecular testing?
21 A. As I told you, I have an expansive

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22 file. These were the articles that I felt were
23 authoritative that I would want to use. That
24 particular article by Sidransky, I didn't think
25 it was relevant to my testimony.

1 Q. Do you recall what that article was
2 about?
3 A. It had to do with identifying
4 either P-53 or K-ras in sputum as an early
5 marker for identifying lung cancer.
6 Q. And let me make sure I understand,
7 because I'm not sure that I did when I looked
8 at Deposition Exhibit 8, these are articles
9 that you have collected from a more expansive
10 library that you have, right?
11 A. Yes. I have thousands of articles.
12 Q. And what you did is you went
13 through your thousands of articles that you
14 have collected over the years?
15 A. Yes.
16 Q. And you pulled the ones that you
17 think are pertinent to your opinions and issues
18 in this case, right?
19 A. That is exactly correct.
20 Q. And the articles out of your
21 library and collection of thousands of articles
22 which you think are germane are the ones that
23 are included in the folder we have marked as
24 Exhibit 8?
25 A. Yes, that is correct.

1 Q. Let's go ahead and mark this one as
2 8-A, please.
3 - - - - -
4 (Thereupon, Tomashefski Deposition
5 Exhibit 8-A was marked for purposes
6 of identification.)
7 - - - - -
8 Q. Dr. Tomashefski, the court reporter
9 has marked as Deposition Exhibit 8-A the
10 February 15, 2001 article in Cancer Research
11 that Dr. Sidransky wrote called Chromosomal
12 Alterations in Lung Adenocarcinoma from Smokers
13 and Nonsmokers, correct, doctor?
14 A. Yes.
15 Q. And just for brevity sake, I'm
16 going to call that the Sidransky February 2001
17 Cancer Research article, okay?
18 A. Yes.
19 Q. When was the first time you saw
20 that article?
21 A. The first time I saw the article
22 probably was sometime after I got Sidransky's
23 report.
24 Q. Let's talk about just kind of the
25 time sequence how all of this unfolded, okay?

1 A. Yes.
2 Q. As I understand it, you had a
3 conversation with Dr. Feingold, correct?
4 A. Yes.
5 Q. Then Mr. Smith's office asked you
6 to prepare some tissue for some testing,

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7 correct?
8 A. That's right.
9 Q. You did that and forwarded it to
10 Mr. Smith, right?
11 A. Yes. I believe Mr. Smith's office
12 picked it up here.
13 Q. Then Dr. Sidransky did the testing
14 that he reported, right?
15 A. Yes.
16 Q. When did you first receive a
17 summary of the results of Dr. Sidransky's
18 testing?
19 A. I believe it went something like
20 this: I received a phone call from Mr. Smith
21 saying that Dr. Sidransky had done the testing,
22 that he would be forwarding me a copy of the
23 report, and then I received the report faxed to
24 me.
25 Q. And are you looking for Exhibit 3?

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1 A. This is the report that was faxed
2 to me, and the date on the fax is May 18.
3 Q. May 18, 2001, yes.
4 Let me ask you this: Your letter
5 which we have marked as Deposition Exhibit 3 is
6 dated May 18, 2001, correct, doctor?
7 A. Yes. So that's the date I received
8 the report.
9 Q. So did you receive and review Dr.
10 Sidransky's May 18, 2001 report before you
11 prepared your May 18, 2001 report which has
12 been marked as Deposition Exhibit 3?
13 A. Yes. I believe I would have
14 received this, and then because I say I am in
15 receipt of the report, so I would have received
16 the report then issued this letter.
17 Q. In your May 18, 2001 report, you
18 say to Mr. Smith, quote, I am in receipt of a
19 report, in parens, dated 5-18-01, closed
20 parens, from Dr. David Sidransky, which
21 describes the results of microsatellite
22 analysis of Mr. Tompkin's lung cancer. The
23 results of that analysis appear to support my
24 opinion that Mr. Tompkin's lung cancer was
25 caused by his exposure to cigarette smoke.

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1 I will be prepared to discuss the
2 results of Dr. Sidransky's report in any
3 subsequent testimony which I gave in this case.
4 A. Yes.
5 Q. Did I read that correctly?
6 A. Yes.
7 Q. When you say the results appear to
8 support my opinion that Mr. Tompkin's lung
9 cancer was caused by exposure to cigarette
10 smoke, what do you mean by that?
11 A. I mean that Dr. Sidransky reached a
12 conclusion in this report where he says these
13 results confirm that carcinogens in cigarette
14 smoke are the cause of Mr. Tompkin's lung
15 cancer, and that statement is what I'm
16 referring to here.
17 Q. So for purposes of your letter,

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18 your May 18 letter, what you are essentially
19 doing is adopting Dr. Sidransky's conclusions
20 in his May 18 letter; is that correct?
21 A. Well, by the fact that I say they
22 appear to support my result means that I'm not
23 fully adopting them.
24 Q. And that's exactly what I'm trying
25 to ask you, because my sense from dealing with

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1 you is that you are pretty careful about what
2 you say and how you express your opinions; is
3 that pretty accurate?
4 A. Right, and just because I get a
5 report doesn't necessarily mean that I'm going
6 to buy into it, but based on what he said here,
7 it certainty seemed as if he was reaching the
8 same conclusion I did through these tests, and
9 since then, I did review the article and I have
10 compared the results of this test with the
11 analyses in that article, and they do seem to
12 correlate very well.
13 Q. So again so the sequence is
14 straight, at the time you wrote your letter
15 which we have marked as Deposition Exhibit 3,
16 what you had was just the letter report that
17 Dr. Sidransky had provided of the same date,
18 right?
19 A. I believe that is correct, but I
20 mean I can't remember totally.
21 Q. But that would be why you used the
22 words "appears to support," right?
23 A. Yes, because I hadn't really
24 evaluated it very carefully and thoughtfully at
25 that point.

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1 Q. What you have done since then
2 though is you have read the article which is
3 cited in Dr. Sidransky's letter report,
4 correct?
5 A. Yes.
6 Q. And let's just go ahead and mark
7 Sidransky's report so it will be clear on the
8 record, and we will mark it Deposition Exhibit
9 9, okay?
10 A. That may have been the report from
11 my file. Does it matter?
12 Q. Yes. Let's mark that 8-B then.
13 (Discussion off the record.)
14 MR. COFER: Let's go back on the
15 record. Let me explain some confusion. I'm
16 going to mark the May 18, 2001 report from Dr.
17 Sidransky that Dr. Tomashefski has just been
18 describing. Initially we were going to
19 physically mark a copy from one of Dr.
20 Tomashefski's files. We started to mark it
21 Deposition Exhibit 9, then I mistakenly thought
22 it came out of composite Exhibit 8.
23 Actually, Dr. Tomashefski's copy
24 came from a separate file that I'm going to
25 look at in a moment, but to eliminate any

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1 confusion, I pulled my own copy of Sidransky's
2 May 18, 2001 report and we are, in fact, going

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3 to mark that Exhibit 9.
4 - - - - -
5 (Thereupon, Tomashefski Deposition
6 Exhibit 9 was marked for purposes of
7 identification.)
8 - - - - -
9 Q. For the record, Dr. Tomashefski, we
10 have been talking about Dr. Sidransky's report,
11 and the reporter has marked that as Tomashefski
12 Exhibit 9, correct?
13 A. Yes.
14 Q. So let me see if I can summarize
15 kind of the sequence of what happened: On or
16 about May 18, 2001, you got a copy of Exhibit
17 9, which is Sidransky's letter report, right?
18 A. Yes.
19 Q. You looked at that one-page report
20 and you prepared Exhibit 3, which is your May
21 18, 2001 report, correct?
22 A. Yes.
23 Q. You said based on your review of
24 the Sidransky report, it looks like that
25 appears to support your opinion that cigarette

1 smoking was a cause of Mr. Tompkin's lung
2 cancer, correct?
3 A. Yes.
4 Q. After that, it is your best
5 recollection that you did more homework and you
6 actually reviewed his article which we have
7 marked as Deposition Exhibit 8-A, right?
8 A. Yes.
9 Q. Which is cited in Exhibit 9,
10 correct?
11 A. Right.
12 Q. And you said looking at Sidransky's
13 report, which is Exhibit 9, looking at the
14 Sidransky article, which is Exhibit 8-A, it is,
15 in fact, your opinion that that work supports
16 your conclusion that smoking was a cause of Mr.
17 Tompkin's lung cancer, right?
18 A. Yes, that is my opinion.
19 Q. It is true, isn't it, Dr.
20 Tomashefski, that you don't need the results of
21 Dr. Sidransky's LOH testing to reach an opinion
22 to a reasonable degree of medical certainty
23 that cigarette smoking was a cause of Mr.
24 Tompkin's lung cancer?
25 A. I had already reached that opinion

1 prior to that report, so you are right.
2 Q. And likewise, it is true that you
3 don't need the results of the P-53 testing to
4 testify to a reasonable degree of medical
5 certainty that cigarette smoking caused Mr.
6 Tompkin's lung cancer?
7 A. That is correct.
8 Q. It is true that you don't need the
9 results of the K-ras testing to testify to a
10 reasonable degree of medical certainty that
11 cigarette smoking was a cause of Mr. Tompkin's
12 lung cancer?
13 A. That's correct.

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14 Q. It is true, isn't it, that you
15 don't need the results of the fiber burden
16 analysis to testify to a reasonable degree of
17 medical certainty that cigarette smoking caused
18 Mr. Tompkin's lung cancer?
19 A. That also is correct.
20 Q. It is true, isn't it, that you
21 don't need to know Mr. Tompkin's specific
22 smoking history to testify to a reasonable
23 degree of medical certainty that cigarette
24 smoking caused Mr. Tompkin's lung cancer as
25 long as you believe the smoking was less than

1 trivial, correct?
2 A. Could you please rephrase that or
3 repeat it.
4 Q. We will start out repeating it and
5 then rephrase it if that doesn't work.
6 (Record read.)
7 Q. I misspoke, that's why you caught
8 me. So let me repeat that. Let me rephrase
9 that.
10 It is true, isn't it, Dr.
11 Tomashefski, that you don't need to know to
12 testify to a reasonable degree of medical
13 certainty Mr. Tompkin's specific smoking
14 history as long as you have information which
15 causes you to believe that his smoking was more
16 than trivial?
17 A. I don't agree with that statement.
18 Q. Tell me why you don't.
19 A. Because in order for me to form an
20 opinion whether or not I think his smoking was
21 more than trivial, I would need to know the
22 details of his smoking history.
23 Q. Okay. That's fair. Thank you.
24 But it is true in your opinion that whether
25 smoking history is trivial is something that is

1 quite subjective?
2 A. I believe you can't get a clear cut
3 dividing line.
4 Q. Are you familiar with any
5 epidemiology that makes distinctions whether
6 cigarette smoking was a contributing cause of
7 lung cancer based on the amount and duration
8 that the person smoked?
9 A. I don't recall any of the
10 epidemiological studies that I reviewed that
11 went into that kind of detail.
12 MR. COFER: Why don't we take five
13 minutes. Do you want to go ahead and just mark
14 these. I don't know if there is any particular
15 order to mark them in. I don't think there
16 really is.
17 Q. Can we just look through these and
18 see what you have?
19 A. Yes.
20 (Recess taken.)
21 - - - - -
22 (Thereupon, Tomashefski Deposition
23 Exhibits 8-B thru 8-Q were marked for
24 purposes of identification.)

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25 - - - - -

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1 MR. COFER: Let's go back on the
2 record.
3 Q. We had a little confusion. Let me
4 tell you what is going on. We had previously
5 marked one manila folder you had as Deposition
6 Exhibit 8, and in it were a bunch of materials,
7 and at the break the reporter went through and
8 marked each of the documents as separate parts,
9 A, B, C, et cetera. And we have three other
10 manila folders, and what we are going to do is
11 follow the same protocol.
12 I'm going to mark a manila folder
13 that has written in your handwriting, Tompkin -
14 medicals, A96-19 as Tomashefski Deposition
15 Exhibit 10, all right?
16 MR. SMITH: Yes.
17 - - - - -
18 (Thereupon, Tomashefski Deposition
19 Exhibit 10 was marked for purposes of
20 identification.)
21 - - - - -
22 Q. Now, let me tell you what is
23 confusing about this: On this manila folder it
24 is marked Deposition Exhibit 7, correct,
25 doctor?

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1 A. Yes.
2 Q. It turns out that was from the last
3 time your deposition was taken, the manila
4 folder itself was marked but you did not have
5 the materials that were marked in the manila
6 folder with you, right?
7 A. I don't recall the sequence.
8 Q. The bottom line is we are now
9 marking that as Deposition Exhibit 10.
10 MS. CHAPMAN: We had them but we
11 didn't know what to do with them.
12 Q. Good thing I'm here. So what we
13 are going to do is mark what was marked
14 Tomashefski Deposition Exhibit 7, and it is not
15 to be confused with what we have marked in this
16 deposition as Deposition Exhibit 7, which is
17 the May 8 letter from Brian Nace to you,
18 correct?
19 A. Right.
20 Q. So Deposition Exhibit 10 is a
21 manila folder with Tompkin - medicals A96-19 on
22 it, and the reporter will mark the individual
23 documents starting with 10-A through whatever,
24 correct, doctor?
25 A. Yes.

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1 Q. Then is there another manila folder
2 that says Tompkin - Reports, 1996 through 1998,
3 correct, doctor?
4 A. Yes. But let me say actually those
5 are all the reports. It doesn't just stop at
6 98. I think I put all of them in there.
7 Q. We are going to mark that as
8 Deposition Exhibit 11, and again sometime this
9 evening or tomorrow the reporter will mark the

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documents contained within the exhibit as subparts of Exhibit 11, all right?

A. Yes.

- - - - -

(Thereupon, Tomashefski Deposition Exhibits 11 and 12 were marked for purposes of identification.)

- - - - -

Q. And then finally we have a folder marked Tompkin, 2001 reports - correspondence, right?

A. Yes.

Q. In your handwriting, and we have marked that as Deposition Exhibit 12, and again at her leisure the reporter will mark the materials contained within as subparts of

Exhibit 12.

A. Yes.

Q. One last question: Are silicates in your opinion an independent carcinogen?

A. In the sense that asbestos is a silicate, yes.

Q. How about nonasbestos silicates?

A. I do not think that any silicate that I can recall right now has been proven to be an independent carcinogen.

MR. COFER: Thank you very much. Let me just get these organized, so we are off the record.

(Deposition concluded at 6:57 p.m.)

- - - - -

CERTIFICATE

The State of Ohio,)
SS:
County of Cuyahoga.)

I, Wendy L. Klauss, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, JOSEPH F. TOMASHEFSKI, JR., M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this

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deposition was taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this day of , 2001.

Wendy L. Klauss, Notary Public
within and for the State of Ohio

My commission expires July 14, 2004.

I N D E X

EXAMINATION OF JOSEPH F. TOMASHEFSKI, JR., M.D.
BY MR. COFER..... 235:11

Exhibits 1 through 6 were marked..... 235:3
Exhibit 7 was marked..... 241:9
Exhibit 8 was marked..... 253:14
Exhibit 8-A was marked..... 300:5
Exhibit 9 was marked..... 306:6
Exhibits 8-B thru 8-Q were marked..... 310:23
Exhibit 10 was marked..... 311:19
Exhibits 11 and 12 were marked..... 313:15

SIGNATURE OF WITNESS

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The deposition of JOSEPH F. TOMASHEFSKI, JR., MD, taken in the matter, on the date, and at the time and place set out on the title page hereof.

It was requested that the deposition be taken by the reporter and that same be reduced to typewritten form.

It was agreed by and between counsel and the parties that the Deponent will read and sign the transcript of said deposition.

AFFIDAVIT

The State of Ohio,)
) SS:
County of Cuyahoga)

Before me, a Notary Public in and for said County and State, personally appeared JOSEPH F. TOMASHEFSKI, JR., MD, who acknowledged that he/she did read his/her transcript in the above-captioned matter, listed any necessary corrections on the accompanying errata sheet, and did sign the foregoing sworn statement and that the same is his/her free act and deed.

In the TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at this day of A.D 2001.

Notary Public

My Commission Expires:

DEPOSITION ERRATA SHEET

RE: DAVID TOMPKIN, ET AL. VS.
THE AMERICAN TOBACCO COMPANY, ET AL
RRS File No.: 154
Deponent: JOSEPH F. TOMASHEFSKI, JR., MD
Deposition Date: JULY 9, 2001

To the Reporter:
I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the Errata Sheet and the appropriate Certificate and authorize you to attach both to

http://legacy.library.ucsf.edu/tid/kkq07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/lhgl0001

17 the original transcript.
18

http://legacy.library.ucsf.edu/tid/kkq07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/lhgl0001